

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 451 of 2000

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

BHALABHAI JAMABHAI

Versus

MADHUBHAI HARIBHAI KOLI

Appearance:

1. Civil Revision Application No. 451 of 2000
MR EE SAIYED for Petitioner No. 1-2
MR CB DASTOOR for Respondent No. 1
RULE SERVED for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 10/02/2004

ORAL JUDGEMENT

The petitioners are the original defendants in Regular Civil Suit No.426/1999, which is filed for permanent injunction to restrain defendants from creating

obstruction on the road from which the plaintiff is passing and re-passing. The said suit is pending in the Court of Civil Judge (S.D.) Palanpur. In the said suit, the respondent-original plaintiff submitted an application at Exh.5, seeking injunction against the defendants.

2) The learned trial Judge rejected the said application, against which the plaintiff preferred an Appeal from Order, being Civil Misc.Appeal No.123/1999. The appellate Judge allowed the said Appeal and granted injunction, as prayed for by the original plaintiff. Against the said order, this revision is preferred by the original defendants.

3) Considering the fact that the present revision is filed against an interlocutory order, which arises out of injunction application given in the suit, this revision is not maintainable in view of the amendment in Section 115 of C.P.C. In that view of the matter, without examining the merits of the matter, this Civil Revision Application is disposed of, as the same is not maintainable. It is clarified that it will be open for the petitioners to file a Special Civil Application under Article 227 of the Constitution of India, if they are so advised. Interim relief granted earlier to continue upto 1st March, 2004, to enable the petitioners to file a Special Civil Application, if they are so advised.

4) In view of above, this Civil Revision Application is disposed of, as the same is not maintainable. Rule is discharged. No order as to costs. Interim relief to continue upto the aforesaid date.

(P.B.Majmudar, J.)